



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

103

FAO-1928-2006 (O&M)  
Date of decision: 11.07.2025

Smt. Veena Rani and others

...Appellants

Versus

Mahipal and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Anurag Jain, Advocate,  
Ms. Chahat, Advocate and  
Ms. Nimisha, Advocate for the appellants.

Mr. Rajneesh Malhotra, Advocate and  
Ms. Manvi Verma, Advocate  
for respondent No.3-Insurance Company.

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**SUDEEPTI SHARMA, J. (ORAL)**

**CM-5660-CII-2025**

This is an application under Section 151 of CPC for listing the aforesaid appeal for some actual date of hearing.

For the reasons stated in the application, the same is allowed and the main case is taken on Board today itself for final disposal.

**FAO-1928-2006**

1. The present appeal has been preferred against the award dated 02.12.2005 passed in the claim petition filed under Section 166 of the Motor Vehicles Act, 1988 by the learned Motor Accident Claims Tribunal, Hisar (for short, 'the Tribunal') for enhancement of compensation granted to the claimants to the tune of Rs.6,82,000/- on account of death of H.L. Jhamb in a Motor Vehicular Accident, occurred on 07.02.1998.



2. As sole issue for determination in the present appeal is confined to quantum of compensation awarded by the learned Tribunal, a detailed narration of the facts of the case is not required to be reproduced for the sake of brevity.

### **SUBMISSIONS OF LEARNED COUNSEL FOR THE PARTIES**

3. The learned counsel for the claimants-appellants contends that the amount assessed by the learned Tribunal is on the lower side and deserves to be enhanced. Therefore, the claimants-appellants prays that the present appeal be allowed and compensation be enhanced as per latest law.

4. Per contra, learned counsel for the respondent No.3-Insurance Company vehemently argues that the learned Tribunal has erred in granting compensation to the claimants/appellants. Therefore, he prays for dismissal of the appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case.

### **SETTLED LAW ON COMPENSATION**

6. Hon'ble the Supreme Court in the case of **Sarla Verma Vs. Delhi Transport Corporation and Another** [(2009) 6 Supreme Court Cases 121], laid down the law on assessment of compensation and the relevant paras of the same are as under:-

*“30. Though in some cases the deduction to be made towards personal and living expenses is calculated on the basis of units indicated in Trilok Chandra, the general practice is to apply standardised deductions. Having a considered several subsequent decisions of this Court, we are of the view that*



*where the deceased was married, the deduction towards personal and living expenses of the deceased, should be one-third (1/3rd) where the number of dependent family members is 2 to 3, one-fourth (1/4th) where the number of dependent family members is 4 to 6, and one-fifth (1/5th) where the number of dependent family members exceeds six.*

*31. Where the deceased was a bachelor and the claimants are the parents, the deduction follows a different principle. In regard to bachelors, normally, 50% is deducted as personal and living expenses, because it is assumed that a bachelor would tend to spend more on himself. Even otherwise, there is also the possibility of his getting married in a short time, in which event the contribution to the parent(s) and siblings is likely to be cut drastically. Further, subject to evidence to the contrary, the father is likely to have his own income and will not be considered as a dependant and the mother alone will be considered as a dependant. In the absence of evidence to the contrary, brothers and sisters will not be considered as dependants, because they will either be independent and earning, or married, or be dependent on the father.*

*32. Thus even if the deceased is survived by parents and siblings, only the mother would be considered to be a dependant, and 50% would be treated as the personal and living expenses of the bachelor and 50% as the contribution to the family. However, where the family of the bachelor is large*



*and dependent on the income of the deceased, as in a case where he has a widowed mother and large number of younger non-earning sisters or brothers, his personal and living expenses may be restricted to one-third and contribution to the family will be taken as two-third.*

\* \* \* \* \*

*42. We therefore hold that the multiplier to be used should be as mentioned in Column (4) of the table above (prepared by applying Susamma Thomas<sup>3</sup>, Trilok Chandra and Charlie), which starts with an operative multiplier of 18 (for the age groups of 15 to 20 and 21 to 25 years), reduced by one unit for every five years, that is M-17 for 26 to 30 years, M-16 for 31 to 35 years, M-15 for 36 to 40 years, M-14 for 41 to 45 years, and M-13 for 46 to 50 years, then reduced by two units for every five years, that is, M-11 for 51 to 55 years, M-9 for 56 to 60 years, M-7 for 61 to 65 years and M-5 for 66 to 70 years.*

7. Hon'ble Supreme Court in the case of titled as **National Insurance Company Ltd. Vs. Pranay Sethi & Ors.** [(2017) 16 SCC 680] has clarified the law relating to Sections 166, 163-A and 168 of the Motor Vehicles Act, 1988, on the following aspects:-

- (A) Deduction of personal and living expenses to determine multiplicand;
- (B) Selection of multiplier depending on age of deceased;
- (C) Age of deceased on basis for applying multiplier;
- (D) Reasonable figures on conventional heads, namely, loss



of estate, loss of consortium and funeral expenses, with escalation;

(E) Future prospects for all categories of persons and for different ages: with permanent job; self-employed or fixed salary.

The relevant portion of the judgment is reproduced as under:-

*“52. As far as the **conventional heads** are concerned, we find it difficult to agree with the view expressed in Rajesh<sup>2</sup>. It has granted Rs.25,000 towards funeral expenses, Rs 1,00,000 towards loss of consortium and Rs 1,00,000 towards loss of care and guidance for minor children. The head relating to loss of care and minor children does not exist. Though Rajesh refers to Santosh Devi, it does not seem to follow the same. The conventional and traditional heads, needless to say, cannot be determined on percentage basis because that would not be an acceptable criterion. Unlike determination of income, the said heads have to be quantified. Any quantification must have a reasonable foundation. There can be no dispute over the fact that price index, fall in bank interest, escalation of rates in many a field have to be noticed. The court cannot remain oblivious to the same. There has been a thumb rule in this aspect. Otherwise, there will be extreme difficulty in determination of the same and unless the thumb rule is*



*applied, there will be immense variation lacking any kind of consistency as a consequence of which, the orders passed by the tribunals and courts are likely to be unguided. Therefore, we think it seemly to fix reasonable sums. It seems to us that reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs.15,000, Rs.40,000 and Rs.15,000 respectively. The principle of revisiting the said heads is an acceptable principle. But the revisit should not be fact-centric or quantum-centric. We think that it would be condign that the amount that we have quantified should be enhanced on percentage basis in every three years and the enhancement should be at the rate of 10% in a span of three years. We are disposed to hold so because that will bring in consistency in respect of those heads.*

\* \* \* \*

*59.3. While determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made. The addition should be 30%, if the age of the deceased was between 40 to 50 years. In case the deceased was between the age of 50 to 60 years, the addition should be 15%. Actual salary should be read as actual salary less*



*tax.*

*59.4. In case the deceased was self-employed (or) on a fixed salary, an addition of 40% of the established income should be the warrant where the deceased was below the age of 40 years. An addition of 25% where the deceased was between the age of 40 to 50 years and 10% where the deceased was between the age of 50 to 60 years should be regarded as the necessary method of computation. The established income means the income minus the tax component.*

*59.5. For determination of the multiplicand, the deduction for personal and living expenses, the tribunals and the courts shall be guided by paras 30 to 32 of Sarla Verma<sup>4</sup> which we have reproduced hereinbefore.*

*59.6. The selection of multiplier shall be as indicated in the Table in Sarla Verma<sup>1</sup> read with para 42 of that judgment.*

*59.7. The age of the deceased should be the basis for applying the multiplier.*

*59.8. Reasonable figures on conventional heads, namely, loss of estate, loss of consortium and funeral expenses should be Rs 15,000, Rs 40,000 and Rs 15,000 respectively. The aforesaid amounts should be enhanced at the rate of 10% in every three years.”*

8. Hon'ble Supreme Court in case titled as **Magma General**



**Insurance Company Limited Vs. Nanu Ram alias Chuhru Ram & Others [2018(18) SCC 130]** after considering **Sarla Verma (supra)** and **Pranay Sethi (Supra)** has settled the law regarding consortium. Relevant paras of the same are reproduced as under:-

*“21. A Constitution Bench of this Court in Pranay Sethi<sup>2</sup> dealt with the various heads under which compensation is to be awarded in a death case. One of these heads is loss of consortium. In legal parlance, "consortium" is a compendious term which encompasses "spousal consortium", "parental consortium", and "filial consortium". The right to consortium would include the company, care, help, comfort, guidance, solace and affection of the deceased, which is a loss to his family. With respect to a spouse, it would include sexual relations with the deceased spouse.*

*21.1. **Spousal consortium** is generally defined as rights pertaining to the relationship of a husband-wife which allows compensation to the surviving spouse for loss of "company, society, cooperation, affection, and aid of the other in every conjugal relation".*

*21.2. **Parental consortium** is granted to the child upon the premature death of a parent, for loss of "parental aid, protection, affection, society, discipline, guidance and training".*

*21.3. **Filial consortium** is the right of the parents to compensation in the case of an accidental death of a child.*



*An accident leading to the death of a child causes great shock and agony to the parents and family of the deceased. The greatest agony for a parent is to lose their child during their lifetime. Children are valued for their love, affection, companionship and their role in the family unit.*

*22. Consortium is a special prism reflecting changing norms about the status and worth of actual relationships. Modern jurisdictions world-over have recognised that the value of a child's consortium far exceeds the economic value of the compensation awarded in the case of the death of a child. Most jurisdictions therefore permit parents to be awarded compensation under loss of consortium on the death of a child. The amount awarded to the parents is a compensation for loss of the love, affection, care and companionship of the deceased child.*

*23. The Motor Vehicles Act is a beneficial legislation aimed at providing relief to the victims or their families, in cases of genuine claims. In case where a parent has lost their minor child, or unmarried son or daughter, the parents are entitled to be awarded loss of consortium under the head of filial consortium. Parental consortium is awarded to children who lose their parents in motor vehicle accidents under the Act. A few High Courts have awarded compensation on this count. However, there was no clarity with respect to the principles on which compensation could be awarded on loss of filial consortium.*



*24. The amount of compensation to be awarded as consortium will be governed by the principles of awarding compensation under "loss of consortium" as laid down in Pranay Sethi<sup>2</sup>. In the present case, we deem it appropriate to award the father and the sister of the deceased, an amount of Rs 40,000 each for loss of filial consortium.*

### **FINDINGS OF THE COURT**

9. A perusal of the record shows that the age of the deceased was 53 years of age at the time of accident. The factum of age is not disputed by either of the party before this Court. Consequently, the age of deceased is taken as 53 years.

10. It is duly evident from the award that PW-11-Hukam Singh, Clerk has proved the salary of deceased as Rs.19,638/- P.M vide Ex.P-8 (salary certificate). A perusal of Ex.P-8 (Salary certificate) shows that the gross salary of the deceased was Rs.19,638/- P.M but after deductions such as GPF, car advance, GIS, the deceased was getting Rs.8377/- P.M. The Tribunal has considered the carry home salary of the deceased as Rs.8377/- P.M while calculating the compensation. The Ld. Tribunal has erred in assessing monthly salary of the deceased, it is a settled preposition of law that allowances and perquisites must be added to the basic salary for determining the actual salary of the deceased, and future prospects must be applied thereafter.

11. Moreover, the Hon'ble Supreme Court in its recent decision in ***Meenakshi v. Oriental Insurance Company, 2024 INSC 583*** has further reinforced this position. The relevant extracts of the same is reproduced as



under:-

*10. Therefore, components of house rent allowance, flexible benefit plan and company contribution to provident fund have to be included in the salary of the deceased while applying the component of rise in income by future prospects to determine the dependency factor. The Accident Claims Tribunal was justified in factoring these components into the salary of the deceased, before applying 50% rise by future prospects due to future prospects, while calculating the total compensation payable to the appellant.*

*11. Clearly, the High Court erred in accepting the appeal filed by the respondent No. 1- Insurance Company and reducing the compensation payable to the appellant from a sum of ₹ 1,04,01,000/- (Rupees One crore four lakh one thousand only) awarded by the Accident Claims Tribunal to ₹ 49,57,035/- (Rupees Forty nine lakh fifty seven thousand and thirty five only).*

*12. We, therefore, hold that the High Court has erred while omitting to add the components of house rent allowance, flexible benefit plan and Company contribution to provident fund to the basic salary of the deceased while applying the principle of rise in income by future prospects.*

12. It is trite law that only income tax is to be deducted from the gross salary for determination of the actual salary of the deceased. A three Judge Bench of the Hon'ble Supreme Court in ***Vijay Kumar Rastogi Vs. Uttar Pradesh State Roadways Transport Corporation AIR 2018 Supreme Court 819*** has categorically held that the income to be considered for determining compensation under the Motor Vehicles Act includes not



merely the net salary or take-home pay but the taxable income, inclusive of all allowances and perquisites. The relevant extract of the said judgment observed as follows:-

*“It is unfathomable that the High Court, despite having accepted the claim of the appellant founded on his tax return for the relevant period, disclosing the taxable income of the appellant as Rs.77,480/(rounded off) and deduction of tax of Rs.4,496/, could have affirmed the conclusion of the Tribunal that the net annual income of the appellant was Rs.44,511/. It ought to have reckoned the taxable income for computing the head towards loss of income. This, in our opinion, is the manifest error committed by the High Court. The appellant is justified in relying upon the decisions of this Court which have taken the view that loss of taxable earning should be reckoned for the purpose of determining just compensation as enunciated in **National Insurance Co. Ltd. Vs. Indira Srivastava and Ors.1**, which has been followed in **Oriental Insurance Company Limited Vs. Jashuben and Ors.2**, and **Kavita Vs. Deepak and Ors.3** It has been held that the “income” should include those benefits, either in terms of money or otherwise, which are taken into consideration for the purpose of payment of income tax or professional tax, although some elements thereof may or may not be taxable due to the exemption conferred thereupon under the statute.”*

13. Consequently, in view of the salary certificate Ex.P-8 and judgment of Hon’ble Apex Court in **Meenakshi Vs. Oriental Insurance Company’s case** (supra). The monthly salary of deceased is assessed as Rs.18,162/- after deducting the tax. So far as the multiplier is concerned, the learned Tribunal erred in law in applying the multiplier of 10 instead of 11,



in view of the law laid down by Hon'ble Supreme Court in *Sarla Verma's case (supra)*. The Ld. Tribunal also not awarded any amount for future prospects and loss of estate. Moreover, the amount awarded for funeral expenses and loss of consortium is on the lower side and deserves to be enhanced. Therefore, the award requires indulgence of this Court.

### **CONCLUSION**

14. In view of the law laid down by the Hon'ble Supreme Court in the above referred to judgments, the present appeal is allowed. The award dated 02.12.2005 is modified accordingly. The appellants-claimants are held entitled to enhanced amounts of compensation as per the calculations made here-under:-

| <b><i>Sr. No.</i></b> | <b><i>Heads</i></b>   | <b><i>Compensation Awarded</i></b> |
|-----------------------|---|------------------------------------|
| 1                     | Monthly Income  | Rs.18162/-(19638-1476)             |
| 2                     | Future prospects @ 15%  | Rs.20886/- (15% of 18162)          |
| 3                     | Deduction towards personal expenditure 1/3rd                              | Rs.6962/- (20886 X 1/3rd)          |
| 4.                    | Total Income  | Rs.13924 (20886-6962)              |
| 4                     | Multiplier  | 11                                 |
| 5                     | Annual Dependency   | Rs.18,37,968/-<br>(13924X12X11)    |
| 6                     | Loss of Estate  | Rs.18,000/-                        |
| 7                     | Funeral Expenses  | Rs.18,000/-                        |
| 8                     | Loss of Consortium<br>Spousal: Rs. 48,000/-x1<br>Parental: Rs. 48,000/-x2 | Rs.1,44,000/-                      |
| 9                     | <b>Total Compensation</b>   | <b>Rs.20,17,968/-</b>              |
| 10                    | <b>Deduction</b><br>Amount Awarded by the Tribunal                        | <b>Rs.6,82,000/-</b>               |



|    |                        |  |
|----|------------------------|--|
| 11 | <b>Enhanced amount</b> | <b>Rs.13,35,968/- (20,17,968-6,82,000)</b> |
|----|------------------------|--|

15. So far as the interest part is concerned, as held by Hon'ble Supreme Court in *Dara Singh @ Dhara Banjara Vs. Shyam Singh Varma* 2019 ACJ 3176 and *R.Valli and Others VS. Tamil Nandu State Transport Corporation* (2022) 5 Supreme Court Cases 107, the appellants-claimants are granted interest @ 9% per annum on the enhanced amount of compensation from the date of filing of claim petition till the date of its realization.

16. The Insurance Company-respondent No. 3 is directed to deposit the enhanced amount of compensation along with interest with the Tribunal within a period of two months from the receipt of copy of this judgment. The Tribunal is directed to disburse the enhanced amount of compensation along with interest in the accounts of the claimants/appellants as per award dated 02.12.2005. The claimants/appellants are directed to furnish their bank account details to the Tribunal.

17. Further Insurance Company is directed to disburse the current schedule fee to Mr. Rajneesh Malhotra, Advocate, pursuant to order dated 18.07.2024 passed in FAO No.1682 of 2007 by this Court, within a period of twenty days from the date of receipt of copy of this judgment.

18. Pending application (s), if any, also stand disposed of.

11.07.2025

*Yogesh*

(SUDEEPTI SHARMA)

**JUDGE**

**Whether speaking/reasoned:-**

**Yes/No**

**Whether reportable:-**

**Yes/No**